

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2396 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MANU JERAM PANCHOLI

Versus

COMMISSIONER OF POLICE

Appearance:

MR ANIL S DAVE for Petitioner

Mr.H.L.Jani, AGP for Respondents Nos. 1, 3

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 10/08/98

ORAL JUDGEMENT

The petitioner in this petition under Article 226 of the Constitution of India has challenged the legality and validity of the order dated 20/01/98 passed under Section 3(1) of the Prevention of Anti - Social Activities Act, 1985 (PASA Act) by the Police Commissioner, Surat.

In the grounds of detention supplied to the petitioner, the detaining authority has placed reliance on three criminal cases registered against the petitioner for the alleged offences under Sections 395, 342, 114 of IPC, under Section 135 of the Bombay Police Act. These three criminal cases are pending for trial before the Criminal Court over and above these are the three criminal cases, further reliance is placed on the statements of three witnesses whose identity has not been disclosed while exercising privilege under Section 9(2) of the Act for the alleged incident which took place two years prior to 7/1/98, and the other incidents dated 13/12/97 and 17/12/97. As regard first incident is concerned the witnesses was beaten by the petitioner and his associates when the witness refused to give lift in his vehicle to the petitioner and his men. As regards the incident of 13/12/97 is concerned, the witness was asked to hand over all money with him and on refusal by the the witness, he was beaten by the witness. On the last incident the concerned witness was beaten on the suspicion that he is an informant of the police. On all occasions, many people gathered to watch the incidents. However, they all started running helter and skelter, when the petitioner and his associates ran towards then with open knife with the result an atmosphere of fear and terror was created. Considering this material on record, the detaining authority has recorded the finding that the petitioner is a dangerous person, within the meaning of Section 2(c) of the Act and therefore with a view to preventing him from acting in any manner prejudicial to the maintenance of public order, it is necessary to detain the petitioner.

This petition is required to be allowed on the ground that assuming for the sake of arguments that the allegations made against the petitioner are true, the same at best can be treated as breaches of law and order and not public order. I have gone through the statements of the witnesses which are stereo-type. Reading the same, it clearly establishes without any manner of doubt that the statements are quite general and vague in nature and the alleged incidents are against individuals and the general public is not concerned at all and, therefore, it cannot be contended that the petitioner is involved in committing breaches of public order. Even if the allegations made are believed to be true, the same at best can be termed as breach of law and order and in no circumstances the same can be termed as breach of public order. Consequently, therefore, the satisfaction arrived at by the detailing authority that the petitioner is a

dangerous person is also visiated. The order of detention is therefore liable to be quashed and set aside.

In the result, the petition is allowed. The order or detention dated 20/1/98 is quashed and set aside. The detenu Manu Jeram Pancholi is ordered to be released forthwith if not required in connection with any other offence. Rule is made absolute to the aforesaid extent with no order as to costs.
